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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/629,241 07/31/00 COLLETT

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PM82/0801

EXAMINER
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GAINESVILLE FL 32606-6669

SY, H ART UNIT	PAPER NUMBER
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3632  
DATE MAILED:

*3*

08/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

**Office Action Summary**

Application No.

09/629,241

Applicant(s)

COLLETT, MAURY E.

Examiner

Holly Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 5,6 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first office action for application number 09/629,241, Wiring Clip for Securing Electrical Wiring to a Framing Member, filed on July 31, 2000.

#### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned on page 4 of the description: 20, 24, 40. Correction is required.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the snap mechanism as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

#### ***Specification***

The abstract of the disclosure is objected to because of the following:

1. page 4, line 2, "The subject invention pertains to" should be deleted, and
2. page 4, line 2, "a" should be capitalized.

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

1. page 3, line 10, "4" should be replaced with ---6--- to accurately describe Fig. 6,
2. page 3, lines 10-11, "secured to a metal framing member" should be replaced with ---clip--- to accurately describe Fig. 6, and

3. page 3, line 14, "6" should be replaced with ---4--- to accurately describe Fig. 4.

Appropriate correction is required.

### ***Claim Objections***

Claims 5, 6 and 14 are objected to because of the following informalities:

1. claim 5, line 1, ---for attaching--- should be inserted after "means" for the purpose of consistency,
2. claim 6, line 1, ---for attaching--- should be inserted after "means" for the purpose of consistency, and
3. claim 14, line 6, ---the method for securing--- should be inserted before "comprising" for the purpose of clarity.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-11 and 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 10 and 11, the word "means" is preceded by the word(s) "closure" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as

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required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 14, the word "means" is preceded by the word(s) "first attachment and second attachment" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 15, the word "means" is preceded by the word(s) "secondary attachment" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 15 recites the limitation "The method for securing" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 is a method claim that depends from claim 11. However, claim 11 is a structure claim. Claim 15 is of improper dependent form because it fails to limit structure by the use of a method.

Examiner believes that applicant intends for claim 15 to depend from claim 14. If this is applicant's intention, then correction is required. Claim 15 is a method claim that limits structure by introducing a secondary attachment means. It does not further limit

the method for securing. Claim 15 is of improper dependent form because it fails to further limit the method. For purposes of further examination, Examiner will consider claim 15 as depending on claim 14 and will treat the claim accordingly.

***Claim Rejections - 35 USC § 102***

Claims 1-15 are treated as if applicant's intent is to claim merely the subcombination of the *wiring clip* and not the *wiring clip* in combination with the *framing member, wiring, electrical wiring, covering material, two-by-four metal framing member and/or covering fastening screws*. The framing member, wiring, electrical wiring, covering material, two-by-four metal framing member two-by-four metal framing member and covering fastening screws are considered functionally recited. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the subcombination and claims 1-15 will be rejected accordingly.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,508,730 to Knezo, Jr. Knezo, Jr. discloses a wiring clip 41 (note Fig. 9) including the following: a main body 42; a wire receiving area adjacent the main body (the space located under 42); and, first and second arms 43 each with respective first and second attachment means for attaching 45 located at first and second ends respectively (located at opposite sides of the longitudinal axis of 42).

Also, Knezo, Jr. discloses a substantially resilient, rubber wire compression member 49 located within the wire receiving area. See *a/so* Knezo, Jr. column 5, lines 71-72, column 6, lines 10-20. Knezo, Jr. discloses that the first and second attachment means has a J-hook and a bend respectively. Finally, Knezo, Jr., discloses a method for securing including the steps of positioning wiring, moving the clip over the wiring, and attaching the clip. See *a/so* Knezo, Jr. column 6, lines 47-54.

Claims 1, 5-10 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,631,809 to Jacobson. Jacobson discloses a wiring clip 5 (note attached marked-up copy of Figs. 1-2) including the following: a main body 5,5a,6,6a,7,7a; a wire receiving area A1 adjacent the main body; and, first and second arms 14a,12a each with respective first and second attachment means for attaching 14,12 located at first and second ends respectively. Jacobson also discloses that the first and second attachment means has a J-hook and a bend respectively. Finally, Jacobson disclose that the clip is dimensioned and made of thin metal or plastic for allowing a screw to penetrate the clip.

Claims 1, 8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,778,537 to Miller. Miller discloses a plastic wiring clip (note Figs. 1 and 4) including the following: a main body (includes 34, 14 and 36); a wire receiving area adjacent the main body 30; and, thin first and second arms 12 each with respective first and second attachment means for attaching 28 located at first and second ends respectively (located at opposite sides of the dashed line in Fig. 1). Miller also discloses that the wiring receiving area has a means for closing that is a snap mechanism.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knezo, Jr. Knezo, Jr. discloses the invention substantially as claimed and as applied to claims 1-6 above. Knezo, Jr. discloses the step of attaching both attachment means for attaching. However, Knezo, Jr. does not disclose attaching both attachment means at different times. The order of the steps of attaching the first and second attachment means is deemed to be made obvious by the functions of the structure of the combination above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 662,587 to Blake

U.S. Patent 2,492,044 to Hulquist

U.S. Patent 2,537,719 to Tuepker

U.S. Patent 3,363,864 to Olgreen

U.S. Patent 3,724,795 to Callanan

U.S. Patent 4,971,280 to Rinderer

The above patents disclose various types of mounting clips.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Sy whose telephone number is (703) 605-1183.

The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Holly Sy  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
July 27, 2001



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER

March 17, 1953

V. JACOBSON

2,631,809

FURRING HANGER

Filed Sept. 30, 1950

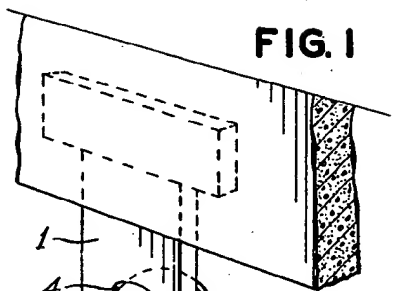


FIG. 1

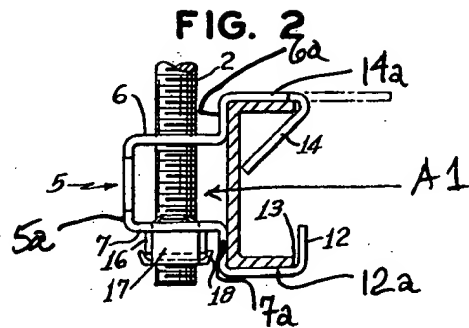


FIG. 2

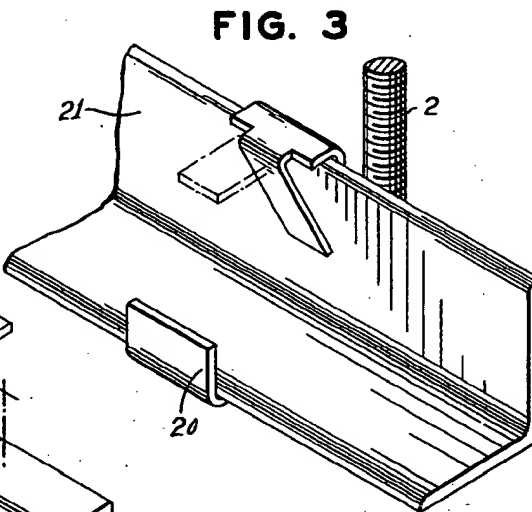


FIG. 3

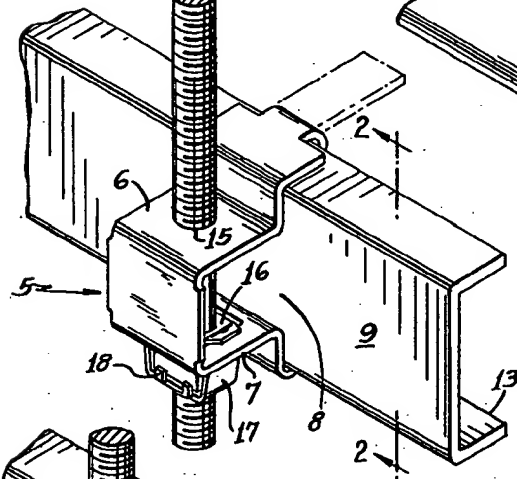


FIG. 4

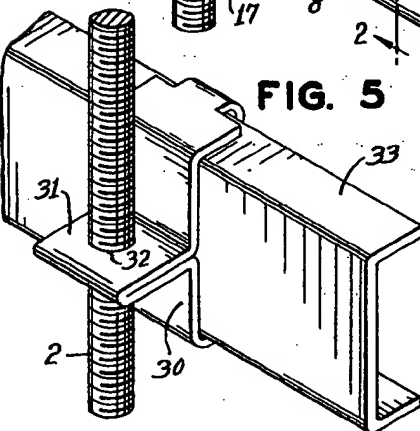
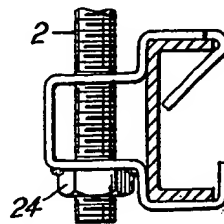
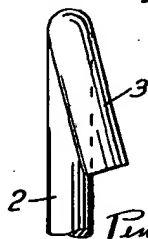


FIG. 5

FIG. 6



INVENTOR  
Victor Jacobson

BY  
Pence, Edwards, Mott & Burrows  
ATTORNEYS